



Ohio Legislative Service Commission

Final Analysis

Megan Cummiskey

Sub. H.B. 390*

131st General Assembly
(As Passed by the General Assembly)

Reps. Schaffer, Retherford, Amstutz, Cera, Rogers, Anielski, Antonio, Baker, Bocchieri, Brenner, Brown, Buchy, Burkley, Celebrezze, Duffey, Ginter, Green, Hagan, Hall, Hambley, Huffman, Lepore-Hagan, Maag, Manning, McClain, McColley, M. O'Brien, Perales, Rezabek, Romanchuk, Ryan, Scherer, Schuring, Sears, Slaby, Slesnick, K. Smith, Sprague, Strahorn, Thompson, Young

Sens. Williams, Beagle, Bacon, Balderson, Cafaro, Coley, Eklund, Faber, Hackett, Hite, Hughes, Jordan, LaRose, Lehner, Obhof, Oelslager, Patton, Seitz

Effective date: September 28, 2016; sections related to repaying unemployment benefits debt, operating appropriations, and certain other matters effective June 28, 2016; other sections effective July 1, 2017

ACT SUMMARY

Repayment of current federal unemployment debt

- Requires a one-time loan to be made from unclaimed funds to the Unemployment Compensation Fund to pay unemployment benefits.
- Requires the Director of Job and Family Services to use the amount transferred from unclaimed funds to eliminate the balance of amounts advanced to the state from the federal government.
- Requires each experience-rated contributory employer to pay an increased contribution rate for contributions due in 2017 to repay the loan from unclaimed funds.

* This analysis does not address appropriations, fund transfers, and similar provisions. See the Legislative Service Commission's Fiscal Note for H.B. 390, As Enacted, which is available at <https://www.legislature.ohio.gov/legislation/legislation-documents?id=GA131-HB-390>.

Contribution rate increase to pay principal on federal advances

- Requires, if as of the computation date an outstanding balance on advances exists, all experience-rated contributory employers to be subject to a contribution rate increase in an amount up to ½ of 1% to eliminate the principal of the outstanding advance balance.
- States that it is the intent of the General Assembly to repeal this increase in contribution rates in future legislation adopting long-term reforms to the unemployment compensation system.

Surcharge to pay interest on federal advances

- Requires, beginning October 1, 2016, if interest is paid on federal advances from the Unemployment Compensation Interest Contingency Fund, the Director to determine the amount of a surcharge to assess against each contributory employer that generates an amount sufficient to repay the amount of any interest paid.

Correctional Institution Inspection Committee

- Modifies employment authority of the Correctional Institution Inspection Committee (CIIC).
- Requires a staff representative assigned by CIIC, rather than the Director of CIIC, to serve on certain advisory boards.

Vacant and abandoned properties – expedited foreclosure actions

- Allows a mortgagee to bring an expedited foreclosure action against vacant and abandoned residential property.
- Provides judicial and sale procedures for foreclosed residential property that is deemed vacant and abandoned.
- Authorizes a mortgagee of a residential property that has been found to be vacant and abandoned to enter and secure the property.
- Authorizes a mortgagee who has not yet filed a mortgage foreclosure action to enter and secure the residential property only if the mortgage contract or other documents provide for the entry.
- Extinguishes an owner's right to redemption of a mortgage on residential property found to be vacant and abandoned upon the confirmation of the property's sale.



Modifications to judicial sale procedures

Official public sheriff sale website

- Creates the official public sheriff sale website to sell property subject to foreclosure sales.
- Permits judicial sales of residential property to be conducted through the website for the first five years the website is fully operational; after this period sales on the website are required.
- Requires the Department of Administrative Services to solicit competitive sealed proposals for the creation, operation, and maintenance of the website.

Private selling officer

- Authorizes a private selling officer to conduct foreclosure sales and establishes procedures relating to those sales.
- Permits a judgment creditor in a foreclosure action to file a motion with the court requesting a specified private selling officer to sell the real property.

Other modifications to judicial sale procedures

- Makes other modifications to judicial sale procedures, including:
 - Establishes remote bidding procedures for physical location sales and website sales.
 - Establishes new procedures for appraisal of property.
 - Increases the penalty fee from 50¢ to \$50 for a freeholder who fails appraisal duties.
 - Establishes new procedures for judicial sales of residential properties subsequent to the first sale attempt.
 - Requires the purchaser of a property at a judicial sale, other than the judgment creditor, to deposit a specified amount with the sheriff or private selling officer at the time of the sale.
 - Grants the judgment creditor and the first lienholder a right of redemption under certain circumstances.



- Permits, under certain circumstances, a county prosecutor to proceed with a foreclosure sale of residential real property.

Owner's physical harm to property

- Provides that an owner who knowingly and with the purpose to diminish the value or enjoyment of the residential property moves, defaces, damages, or otherwise improperly tampers with the person's own residential property is guilty of criminal mischief if the property is the subject of a foreclosure action.

Attorney General reports and database

- Requires all officers appointed or authorized by a court to conduct a foreclosure sale of certain residential properties to submit quarterly reports to the Attorney General.
- Requires the Attorney General to establish and maintain a public database containing information submitted in the reports.

Responsibilities of the clerk of the court of common pleas

- Prohibits a clerk from restricting, prohibiting, or modifying the rights of parties seeking service on party defendants.

Enforcement of lost instrument

- Modifies one of the three conditions that must be satisfied for a person to enforce a lost instrument under Ohio Commercial Paper Law.

Tax certificate foreclosure sales

- Permits private selling officers to conduct tax certificate foreclosure sales.
- Establishes sale procedures conducted online.
- Authorizes private selling officers to carry out specified actions in order to sell the foreclosed property and execute a new deed.
- Specifies the amount that is considered reasonable for attorney, private selling officer, and title agent and title insurance company fees charged as costs against property.

Auctioneers

- Requires auctioneers who are not private selling officers who conduct judicial sales to be Ohio residents.



Exempt state employee salary schedules

- Eliminates Schedule E-1 for Step Eight Only, which is a salary schedule for exempt state employees, on July 1, 2017.
- Gradually moves exempt state employees paid under Schedule E-1 for Step Eight Only into the corresponding pay range in Schedule E-1.
- Creates a new step for pay ranges 12 through 16 of Schedule E-1, Step 8, which provides for a higher maximum amount of pay than Schedule E-1 for Step Eight Only.

Certificates of need

- Provides that any failure to conduct a reviewable activity in substantial accordance with an approved certificate of need is itself a reviewable activity if the failure occurs within five years of the reviewable activity's implementation.

Community health assessments, implementation plans, and tax information

- Requires boards of health and tax-exempt hospitals to submit to the Department of Health assessments of community health and implementation plans every three years, beginning in 2020.
- Requires tax-exempt hospitals to submit to the Department certain tax information annually, beginning July 1, 2017.

Alternative Fuel Vehicle Conversion Grant Program

- Establishes the Alternative Fuel Vehicle Conversion Grant Program to make grants to businesses that purchase large alternative fuel vehicles or convert large traditional fuel vehicles to run on alternative fuel.

Controlling Board

- Changes the name of the Controlling Board Emergency Purposes Fund to the Controlling Board Emergency Purposes/Contingencies Fund.
- Transfers up to \$25 million of surplus GRF revenues for use by the Controlling Board.

Movie production tax credit

- Adjusts how the refundable motion picture tax credit is calculated.



- Removes the \$5 million limit on the maximum credit amount that may be awarded to a production.
- Increases the total amount of credits that may be awarded each year from \$20 million to \$40 million.
- Authorizes motion picture companies to transfer the authority to claim a credit to another person.
- Creates a program for certifying resident film crew trainees and authorizes the state to make payments to motion picture companies equal to 50% of those trainees' salaries.

Other tax-related provisions

- Exempts from sales and use tax the sale of natural gas by a municipal gas company and applies the exemption retroactively.
- Authorizes abatement of unpaid property taxes, penalties, and interest owed on property owned by a metropolitan housing authority that would have qualified for tax exemption if not for a failure to comply with certain exemption procedures.
- Clarifies the role of the Director of Budget and Management, Tax Commissioner, and Superintendent of Insurance in reviewing taxpayer applications for job retention tax credits.
- Eliminates the authority of counties to levy a tax on utility services purchased by consumers in the county.
- Authorizes library boards to issue special obligation bonds for facilities backed by a property tax levied for the library board by the board's taxing authority.

School district performance audits

- Requires the Auditor of State, in consultation with the Department of Education and the Office of Budget and Management, to determine for which school districts to conduct performance audits, with priority given to districts in fiscal distress.
- Requires the Auditor of State, rather than the Department, to pay the costs of the performance audits and transfers \$1 million for FY 2017 from the Department to the Auditor of State for that purpose.

Veterinarian licensing

- Expands the requirements to obtain a license to practice veterinary medicine to additionally require an applicant to have passed the nationally recognized examination approved by the State Veterinary Medical Licensing Board.

Ohio Turnpike and Infrastructure Commission

- Allows designees of the Directors of Transportation and Budget and Management to serve on the Ohio Turnpike and Infrastructure Commission.

Oil and gas unit operations of ODOT-owned lands

- Requires the Chief of the Division of Oil and Gas Resources Management, by order, to approve or deny an application for unit operation of an oil and gas pool involving ODOT by August 12, 2016, if a hearing was conducted concerning the application prior to June 28, 2016.
- Specifies that an applicant to whom the above provision applies is not required to commence unit operations within 24 months of the effective date of the Chief's order.

Ohio Judicial Conference

- Exempts the Ohio Judicial Conference from sunset review in 2016.

Capital Case Attorney Fee Council

- Creates the Capital Case Attorney Fee Council, replacing the Supreme Court of Ohio as the entity that sets the rate of compensation for counsel selected by indigent persons or appointed by the courts in capital cases.

Land conveyance

- Repeals a prior authorization for a land conveyance of Department of Job and Family Services property in Columbus and instead authorizes the property to be conveyed to the Columbus Downtown Development Corporation or a grantee to be determined.

Appropriations

- Makes capital and other appropriations.
- States the General Assembly's intent regarding capital appropriations and reappropriations, including that:



- Appropriations and reappropriations are for capital construction projects that are ready to begin construction or for projects that will be completed within the fiscal biennium.
- Projects that are neither started nor completed within the biennium will be allowed to lapse and not be reappropriated, barring extraordinary circumstances.

TABLE OF CONTENTS

Repayment of current federal unemployment debt.....	10
Loan from unclaimed funds	10
Temporary contribution rate increase to repay the loan.....	10
Contribution rate increase to pay principal on federal advances.....	11
Surcharge to pay interest on federal advances	12
Unemployment Compensation Interest Contingency Fund.....	13
Correctional Institution Inspection Committee (CIIC).....	13
Employees	13
Advisory boards	14
Attorney General.....	14
Judicial foreclosure actions	14
Overview.....	14
Definitions	14
Vacant and abandoned property: expedited foreclosure actions	15
Vacant and abandoned property criteria.....	15
Hearings.....	16
Preliminary finding.....	17
Judgment	17
Sale of property.....	17
Right to enter the property.....	17
Right of redemption	17
Modifications to judicial sale procedures	18
Official public sheriff sale website	18
Creation of website.....	18
Website requirements.....	18
Auction management system	19
License fee.....	19
Registration and bidding procedures	19
Sheriff postponement and cancellation of sale.....	20
Shared service agreements and county expenses	20
Private selling officer	20
Private selling officer authority.....	21
Private selling officer postponement and cancellation of sale	21
Costs.....	22
Private selling officer report	22
Delivery of deed	23
Title insurance.....	23
Remote bidding for physical location sales.....	23
Appraisal of real property	24
Generally.....	24



Residential property appraisal	24
Commercial property appraisal.....	25
Penalty for neglecting to serve as an appraiser	25
Post appraisal procedures.....	25
Price and conditions for judicial sales subsequent to the first sale.....	25
Purchaser deposit	26
Failure to pay balance due on purchased property.....	26
Property taxes paid from property sale proceeds	27
Deed and transfer of property title	28
Right of redemption by judgment creditor or first lienholder	28
Purchaser's costs.....	29
Advertisement requirements.....	29
Notice requirements	29
Purchaser's identifying information	30
Reversal of judgment	30
Property sold by master commissioner.....	31
Judgment creditor conduct	31
Local government authority to continue foreclosure sale	31
Owner's physical harm to property	32
Attorney General reports and database.....	32
Responsibilities of the clerk of the court of common pleas	32
Enforcement of lost instrument.....	33
Tax certificate foreclosure sales.....	33
Authority for private selling officer to sell property.....	33
Priority of fees	34
Attorney fees.....	34
Private selling officer fee	34
Title agent and title insurance company fee.....	35
Licensed auctioneers and judicial sales	35
Conduct throughout the foreclosure process	35
Conforming changes	35
Execution judgments	35
Private selling officer's deed form	36
Technical change.....	36
Exempt state employee salary schedules	36
Effective date for pay schedule revisions.....	37
Certificate of need for changes in a reviewable activity	37
Community health assessments, implementation plans, and tax information	38
Plans and assessments submitted by boards and hospitals.....	39
Tax information submitted by hospitals	39
Alternative Fuel Vehicle Conversion Grant Program	40
FY 2017 funding.....	41
Controlling Board	41
Emergency Purposes Fund name change.....	41
Surplus GRF transfer for Controlling Board use	41
Movie production tax credit	41
Credit amount	42
Overall credit limit.....	42
Credit certificate transfers	42
Film crew salary payment program	43
Other tax-related provisions	43
Municipal gas company sales exemption	43



Tax abatement for housing authority property	44
Procedures for receiving tax abatement	44
Job retention tax credit application review process.....	45
Eliminate county utility excise tax	45
Library tax-supported securities	45
School district performance audits	46
Veterinarian licensing.....	47
Ohio Turnpike and Infrastructure Commission	47
Oil and gas unit operation of ODOT-owned lands	47
Ohio Judicial Conference exempt from sunset review	48
Capital Case Attorney Fee Council	48
Land conveyance.....	48
Intent regarding capital appropriations and reappropriations	49

CONTENT AND OPERATION

Repayment of current federal unemployment debt

(Section 741.10)

Loan from unclaimed funds

The act requires, by September 15, 2016, the Director of Job and Family Services (JFS Director), who administers Ohio's unemployment compensation system, to certify to the Director of Budget and Management (OBM Director) the balance of advances (essentially, loans) from the federal government for the payment of unemployment benefits. The OBM Director, by September 20, 2016, must request the Director of Commerce to transfer cash from unclaimed funds to the Unemployment Compensation Fund in the amount certified by the JFS Director as a one-time loan for the purpose of paying unemployment benefits. The Director of Commerce must make that transfer upon receiving the request. The amount transferred must be credited to the Mutualized Account in the Unemployment Compensation Fund.

The OBM Director, in consultation with the JFS Director, must establish a schedule for the loan repayment. The loan must be repaid by February 28, 2018.

The JFS Director, by September 30, 2016, must deposit the amount transferred into the Unemployment Compensation Fund from unclaimed funds with the U.S. Secretary of the Treasury to eliminate the balance of amounts advanced.

Temporary contribution rate increase to repay the loan

The act requires each experience-rated contributory employer (an employer with four or more consecutive calendar quarters of unemployment benefits charged against the employer) to pay an increased contribution rate for contributions due in 2017. The



increased rate is to be determined by the JFS and OBM Directors, so that it generates in the aggregate an amount not greater than the amount necessary to repay the loan from unclaimed funds. The Directors must determine the amount of the increase on a flat-rate basis. The increased amount, if not paid when due, must be treated the same as delinquent contributions under continuing law.

The Treasurer of State must establish and maintain a separate account known as the "Loan Account" within the Unemployment Compensation Fund. The JFS Director must deposit amounts received from the increased contribution rate within the Loan Account and credit the amounts to the Mutualized Account. The JFS Director must repay the amount transferred as a loan from unclaimed funds from amounts within the Loan Account. If any amounts remain in the Loan Account after the repayment of the loan, they must be deposited with the U.S. Treasury Secretary to the credit of Ohio's account within the federal Unemployment Trust Fund. The amount transferred from the Loan Account must be charged to the Mutualized Account.

Contribution rate increase to pay principal on federal advances

(R.C. 4141.25; Section 741.20)

If, as of the computation date (July 1), Ohio has an outstanding balance on federal unemployment advances, the act requires all experience-rated contributory employers to be subject to a contribution rate increase, as determined by the JFS Director, in an amount up to $\frac{1}{2}$ of 1%, for the purpose of eliminating the principal of the outstanding advance balance.

The act incorporates this increase into the formula used to calculate the minimum safe level tax (MSL tax). The MSL tax is a continuing law contribution rate increase imposed when the Unemployment Compensation Fund is below a "minimum safe level"; in essence, the balance required in the Fund to pay benefits during a moderate recession. The purpose of the MSL tax is to rebuild the Fund to a safe level. Under continuing law, the MSL tax is calculated by taking a flat-rate percent by which the normal contribution rate for an employer is increased (the amount of the increase varies depending on how far below the minimum safe level the Fund is as of the computation date) and then entering that flat-rate into a formula based on experience. The act requires the increase created by the act, if it applies, to be added to the continuing law MSL flat-rate percent increase, and that sum is then required to be calculated pursuant to the continuing law MSL tax formula based on experience. The amounts received from the increased contribution rate must be credited 50% to the individual employer's account and 50% to the Mutualized Account.



If the act's rate increase is imposed, it must remain in effect for each calendar year thereafter until the earlier of the following:

(1) The principal on the outstanding advance balance has been eliminated.

(2) The JFS Director determines that the maximum Federal Unemployment Tax Act (FUTA) tax credit an employer may receive pursuant to federal law will be reduced for that calendar year.

The act specifies that it is the intent of the General Assembly to repeal this increase in contribution rates in future legislation adopting long-term reforms to the Unemployment Compensation System.

Surcharge to pay interest on federal advances

(R.C. 4141.251)

Beginning October 1, 2016, if the JFS Director pays interest charged pursuant to federal law on federal unemployment advances from the Unemployment Compensation Interest Contingency Fund (see "**Unemployment Compensation Interest Contingency Fund**," below), the act requires the Director to require each contributory employer to pay a surcharge. The Director must determine the amount of a surcharge to assess against each contributory employer that generates an amount not greater in the aggregate than the amount sufficient to repay the Fund for the interest paid. The Director must determine the surcharge amount on a flat rate basis.

The Director must collect the surcharge at the same time and in the same manner as contributions due under continuing law. If a surcharge is assessed, the Director must provide notice to each employer subject to the surcharge, either upon the quarterly contribution report due from each employer under continuing law or by other appropriate notice, a separate listing of the surcharge amount due. The act prohibits surcharge payments from being used to satisfy an employer's contribution obligations under continuing law.

If an employer payment is insufficient to pay the amount of contributions due under continuing law and the amount of the surcharge, the payment first must be applied against the surcharge due. The Director then must apply the remaining amounts from a partial payment in the following order:

- (1) Against any mutualized contributions due;
- (2) To the credit of the employer's individual account;
- (3) Against any interest, forfeiture, and fines due.



If a surcharge is not paid when due, it must be treated the same as delinquent contributions under continuing law, and any forfeiture or interest payments associated with collection of the surcharge must be deposited consistent with forfeiture and interest associated with contributions under continuing law.

Unemployment Compensation Interest Contingency Fund

The act creates the Unemployment Compensation Interest Contingency Fund in the state treasury. The Fund must be used to pay interest charged pursuant to federal law on federal unemployment advances. Any interest earned on the money in the Fund must be retained in the Fund. The JFS Director must deposit amounts received pursuant to the surcharge in the Fund.

Correctional Institution Inspection Committee (CIIC)

(R.C. 103.71, 103.74, 181.22, and 5145.162)

Employees

The act modifies the employment authority of the Correctional Institution Inspection Committee (CIIC), which consists of eight members of the General Assembly, four appointed by the President of the Senate and four by the Speaker of the House. CIIC's two primary duties are to maintain a continuing program of inspection for state correctional institutions, and to evaluate and assist in the development of programs to improve conditions or operation of correctional institutions. CIIC employs staff to aid in performing its duties.

Former law authorized CIIC to employ "a director and other nonlegal staff" and, subject to the approval of the Director of the Legislative Service Commission (LSC), to contract for the services of nonlegal technical advisors, as necessary for CIIC to carry out its duties. Instead, the act allows CIIC to employ "professional, technical, and clerical employees" as necessary for CIIC to successfully and efficiently perform its duties. And, the act allows CIIC to contract for the services of persons who are qualified by education and experience to advise, consult with, or otherwise assist in the performance of its duties. The employees serve at the pleasure of CIIC and, under continuing law, are in the unclassified service.

CIIC remains subject to the oversight and direction of LSC in its duty to direct the work of CIIC employees, but the act removes certain LSC involvement. Specifically, former law required the LSC chairperson and vice-chairperson to fix the compensation of the CIIC Director. And, the CIIC Director was required to fix the compensation of other CIIC staff in accordance with the salary schedule established by the LSC Director, subject to the LSC Director's approval. Instead, the act requires CIIC, by a majority of its



members, to make any decision related to the duties of employees or related to employment. If a majority of the members are unable to decide a matter, the chairperson decides the matter.

Advisory boards

The act requires a staff representative assigned by CIIC, rather than the Director of CIIC, to serve on two advisory boards. Under former law, the Director served on the Criminal Sentencing Advisory Committee and the Office of Enterprise Development Advisory Board. The act requires, instead, that CIIC assign a staff representative to serve on these advisory boards.

Attorney General

Finally, the act removes language that specifically states the Attorney General must act as legal counsel to CIIC. Although removed from CIIC's law, the Attorney General, as the chief law officer for the state and its departments, is legal counsel for CIIC.¹

Judicial foreclosure actions

Overview

(Section 101.03(A))

The act makes changes relative to judicial foreclosure actions. First, it permits a mortgagee to bring an expedited foreclosure action against residential property that is "vacant and abandoned." The act also establishes the official public sheriff sale website through which foreclosure sales can be held. It also permits private selling officers to conduct foreclosure sales, and makes other changes to procedures related to the judicial sale of property. The act specifies in its statement of intent that the changes relating to the judicial sale of real property comprise a comprehensive regulatory framework intended to operate uniformly throughout the state to provide efficient sales procedures for foreclosed property, improve the market for such property by increasing sale prices, and reduce the number of unoccupied and abandoned properties marring the cities in Ohio. This does not preempt vacant foreclosed property registration ordinances enacted by political subdivisions pursuant to their police powers.

Definitions

As used in this analysis:

¹ R.C. 109.02, not in the act.



"**Mortgagee**" means a person entitled to enforce the instrument secured by the mortgage under the Ohio Commercial Paper Law or a person with the right to enforce the obligation secured by the mortgage pursuant to law outside of the Ohio Commercial Paper Law.

"**Mortgagor**" means a person who, having all or part of title to property, by written instrument pledges that property for some particular purpose, such as security for a debt. In other words, the property owner who has taken out a mortgage.

"**Sheriff's sale**" and "**judicial sale**" mean the sale of property pursuant to court order.

Vacant and abandoned property: expedited foreclosure actions

(R.C. 2308.02 and 2308.03)

The act permits a mortgagee who files a foreclosure action on a residential property to file a motion with the court to proceed in an expedited manner on the basis the property is vacant and abandoned. The act specifies that none of its procedures regarding expedited actions supersede or limit other procedures adopted by the court to resolve residential mortgage loan foreclosure actions, including foreclosure mediation.

Vacant and abandoned property criteria

In deciding the motion to proceed in an expedited manner, the court must deem the residential property vacant and abandoned if all of the following apply:

(1) The court finds by a preponderance of the evidence that the residential mortgage loan is in monetary default;

(2) The court finds by a preponderance of the evidence that the mortgagee is a person entitled to enforce the instrument secured by the mortgage under the Ohio Commercial Paper Law or a person with the right to enforce the obligation secured by the mortgage pursuant to law outside of the Ohio Commercial Paper Law;

(3) No mortgagor or other defendant has filed an answer or objection setting forth a defense or objection that, if proven, would preclude the entry of a final judgment and decree of foreclosure;

(4) No mortgagor or other defendant has filed a written statement with the court indicating that the property is not vacant and abandoned; and



(5) The court finds by clear and convincing evidence that at least three of the following factors are true:

- Neither an owner nor a tenant appears to be residing in the property at the time of an inspection by the appropriate county, municipal corporation, or township official, or by the mortgagee.
- Gas, electric, sewer, or water utility services have been disconnected.
- Windows or entrances are boarded up or closed off, or multiple window panes are broken and unrepaired.
- Doors are smashed through, broken off, unhinged, or continuously unlocked.
- The property is sealed because, immediately prior to being sealed, it was considered by the appropriate county, municipal corporation, or township official to be open, vacant, or vandalized.
- Junk, debris, or hazardous or noxious materials have accumulated.
- Furnishings, window treatments, and personal items are absent.
- The appropriate county, municipal corporation, or township official provides a written statement that the structure is vacant and abandoned.
- The property is the object of vandalism, loitering, criminal conduct, or there has been physical destruction or deterioration of the property.
- A mortgagor issues a written statement expressing the intent of all mortgagors to abandon the property.
- Other reasonable indicia of abandonment exist.

Hearings

If, at the time the mortgagee brings an action to foreclose on a residential mortgage loan, the mortgagee files a motion for expedited foreclosure, the court must decide the motion not later than 21 days after the last period to answer the foreclosure complaint has expired, or within the time consistent with the local rules. If the mortgagee files the motion for expedited foreclosure after the last period to answer the foreclosure complaint has expired, the court must decide the motion not later than 21 days after the motion is filed, or within the time consistent with the local rules.



Preliminary finding

If a government official has not verified the residential real property is vacant and abandoned, but the court makes a preliminary finding that the property is vacant and abandoned pursuant to the criteria above, then within seven days of the preliminary finding, the court must order the appropriate county, municipal corporation, or township official to verify the property is vacant and abandoned. Court costs assessed in connection with this government inspection ordered by the court must not exceed \$50.

Judgment

If the court decides that the property is vacant and abandoned and that the mortgagee who filed the motion to proceed in an expedited manner is entitled to judgment, the court must enter a final judgment and decree of foreclosure and order the property to be sold according to procedures under the act (see "**Sale of property**," below).

Sale of property

If the court enters a judgment and orders a sale of the property, the officer conducting the sale must offer the property for sale within 75 days after the issuance of the order of sale. The sale must be conducted in accordance with existing execution of property procedures, including possible postponement procedures under the act (see "**Postponement of sale**," below).

Right to enter the property

The act enables a mortgagee of a residential property that is found to be vacant and abandoned to enter that property to secure it and prevent damage. If the mortgagee has not yet filed a mortgage foreclosure action, the mortgagee may enter the property only if the mortgage contract or other documents allow the entry.

Right of redemption

The equitable and statutory rights to redemption of a mortgage on a property found to be vacant and abandoned in expedited foreclosure proceedings expire upon the confirmation of the sale of the property.



Modifications to judicial sale procedures

Official public sheriff sale website

(R.C. 2329.153, 2329.154, and 2329.39; Section 101.04)

The act requires the creation of an official public sheriff sale website. By September 28, 2017 (one year after the act's effective date), in all cases in which the sheriff is ordered to conduct a judicial sale of residential real property, the sale may be conducted on the official public sheriff sale website for a five-year period, beginning when the website is fully operational. After this five-year period, the judicial sale of residential property must be conducted on the website. Judicial sales of commercial property may be conducted on the website during and after this five-year period. In addition, a sheriff may conduct a dual real property foreclosure sale on the website and at a physical location considered appropriate by the sheriff. All sales conducted on the website must be open for bidding for at least seven days.

Creation of website

By December 27, 2016 (90 days after the act's effective date), the Department of Administrative Services must solicit competitive sealed proposals for the creation, operation, and maintenance of the official public sheriff sale website and an integrated auction management system. The website and the integrated auction management system must be a single statewide system that will be used by all county sheriffs. The winning bidder must work with sheriffs and other groups to address issues regarding the website, including potential cost and recoupment, details of implementation, and other unresolved concerns.

Website requirements

The website must meet the following minimum standards:

- (1) It must be limited to the judicial sale of real property in Ohio.
- (2) It cannot charge a fee for the public to view properties for sale.
- (3) It must allow each county sheriff to add text, images, or graphics for identifying the county or sheriff conducting the sale.
- (4) It must include industry-standard features and functionality, including user guides, online financial transaction device payments, anti-snipe functionality,² watch

² Sniping is placing a bid in the closing minutes of an online auction. eBay, *eBay Glossary*, <http://pages.ebay.com/help/account/glossary.html#S>.



lists, email notifications, maximum bid limits, automatic incremental bidding, and search and map features that allow users to search by county, zip code, address, parcel number, appraised value, party name, case number, and other variables.

(5) It must include features that allow for cancellation of sales as required by law or court order and postponement of sales.

(6) It must provide a secure online payment processing system.

(7) It must allow an attorney or law firm to enter a bid in a representative capacity.

(8) It must be integrated with the auction management system described in the act (see "**Auction management system**," below).

Auction management system

The website must be integrated with the auction management system, which is required to have a role-based workflow engine to assist in conducting sales on the website, capturing data, complying with all relevant laws, and managing administrative processes related to the judicial sale of real property in a timely, secure, and accurate manner. The auction management system must be able to record the data necessary to meet the act's reporting requirement (see "**Attorney General reports and database**," below), and record fees, costs, deposits, and other money items to ensure accurate accounting of moneys received and disbursed in each judicial sale of real property.

License fee

The license fee for the creation, operation, and maintenance of the website and auction management system must be determined using a per-transaction or per-use model. The addition of a property to the website or auction management system is considered *a transaction* for determining the license fee. The license fee for each judicial sale of real property must be taxed as costs in the case, but no other license fees should be assessed to the county sheriff.

Registration and bidding procedures

If the property is sold online, the sheriff or private selling officer must require persons seeking to bid to register online with the website before being authorized to bid. The registration form must include information that will enable the sheriff or private selling officer to identify and contact the bidder and complete the sale. In the case of an attorney or a law firm that bids in a representative capacity, the attorney or



law firm must register as the representative of the party, as either an individual or entity.

The website's registration form must require all persons to state, to the best of the person's knowledge and belief, that the information provided by the person is true, correct, and complete under penalties of perjury. The email address, telephone number, and financial transaction device information required to be provided on the form are confidential and not public records.

Sheriff postponement and cancellation of sale on website

If the sale of the real property will be conducted on the official public sheriff sale website, the judgment creditor may instruct the sheriff to postpone the sale one time for up to 180 days after the initial sale date. After receiving this instruction, the sheriff must announce on the website that the sale is postponed and give notice of the rescheduled sale date. This announcement is deemed to meet the notice requirement under the act (see "**Notice requirement**," below). If the judgment creditor does not postpone the sale, the judgment creditor may instruct the sheriff to cancel the sale. Upon receiving this instruction, the sheriff must announce on the website that the sale is cancelled. This announcement must remain posted until the end of the required seven-day bidding period. If the sale is postponed or canceled, all prior bids made are void.

Shared service agreements and county expenses

The act permits counties, pursuant to continuing law authority, to enter into a shared services agreement relating to the judicial sale of real property on the official public sheriff sale website. The agreement may seek to improve efficiency and reduce costs in the judicial sale of real property by consolidating administrative functions and processes.

Private selling officer

(R.C. 2329.01(B)(2), 2329.151, and 2329.152)

The act establishes procedures that permit private selling officers to conduct foreclosure sales. "Private selling officer" means an Ohio resident licensed as both an auctioneer and as a real estate broker or real estate salesperson under Ohio law.

In every foreclosure action demanding the judicial or execution sale of real property, the county sheriff must sell the property at a public auction, unless the judgment creditor files a motion with the court requesting a private selling officer to sell the property at a public auction. If the court authorizes a private selling officer to sell the property, the judgment creditor can either seek to have the property sold by the



private selling officer authorized by the court or by the county sheriff. If the judgment creditor chooses sale by the private selling officer, the judgment creditor must file with clerk of court a writ requesting the issuance of an order of appraisal to the sheriff and an order of sale to the private selling officer. After the filing of that writ, the clerk must immediately issue both:

(1) An order of appraisal to the sheriff, who must obtain an appraisal of the property.

(2) An order of sale to the private selling officer, who, after the return of the appraisal, must advertise and sell the property in conformity with law.

Private selling officer authority

The private selling officer may do any of the following:

- Market the real property and conduct the public auction online or at any physical location in the county in which the property is situated. If the auction occurs online, it must be open for bidding for at least seven days;
- Hire a title insurance agent licensed under Ohio law or title insurance company authorized to do business under Ohio law to assist with administrative services;
- Execute to the purchaser, or the purchaser's legal representative, a deed of conveyance of the property sold;
- Record on behalf of the purchaser the deed conveying title to the property sold, even if the deed may not actually have been delivered to the purchaser prior to its recording.

Private selling officer postponement and cancellation of sale

A judgment creditor that obtains a court order authorizing a specified private selling officer to sell the real property at a public auction may instruct the officer to postpone the sale of the property one or more times. However, all rescheduled sale dates must be within 180 days of the initial sale date. If the private selling officer receives an instruction to postpone, the officer must announce the postponement as follows:

(1) If the sale is at a physical location, the announcement must be made at the sale and must include the date, time, and place of the rescheduled sale.



(2) If the sale is online, the announcement must be made on the auction website and must include the date of the rescheduled sale.

Each announcement must meet notice requirements under the act (see "**Notice requirements**," below).

If the judgment creditor does not postpone the sale, the judgment creditor may instruct the private selling officer to cancel the sale. If the officer receives this instruction, the officer must announce the cancellation as follows:

(1) If the sale is at a physical location, this announcement must be made at the sale.

(2) If the sale is online, this announcement must be made on the auction website and must remain posted there until the end of the required seven-day bidding period.

If the sale is postponed or canceled, all prior bids are void.

Costs

If the judgment creditor obtains a court order to have the real property sold by a private selling officer, all of the following must be taxed as costs in the case:

(1) The cost of the appraisal;

(2) The cost of the advertisement;

(3) The fee charged by the private selling officer and all costs incurred by the private selling officer (excluding the appraisal and advertisement costs described above) up to 1.5% of the sale price of the real property. Any amount exceeding 1.5% of the sale price cannot be included in the amount necessary to redeem the property by the judgment debtor or in the calculation of any deficiency judgment, but rather must be paid by the judgment creditor or from the judgment creditor's portion of the sale proceeds.

Private selling officer report

A private selling officer that conducts a sale must file with the court an itemized report of all appraisal, publication, marketing, and other expenses of the sale and all fees charged by the officer for marketing or conducting the sale, including the fee charged by the title agent or title insurance company for administration services, if applicable, and title, escrow, and closing services.



Delivery of deed

The act establishes that by placing a bid at a sale, a purchaser appoints the private selling officer who conducts the sale as the purchaser's agent for the sole purpose of accepting delivery of the deed.

Title insurance

The private selling officer who conducts the sale must hire a title insurance agent licensed under Ohio law or title insurance company authorized to do business under Ohio law to perform title, escrow, and closing services related to the sale. The fee charged by the agent or company must be taxed as costs in the case, provided they are reasonable. Fees up to \$500 are presumed to be reasonable. Fees exceeding \$500 may be paid only if authorized by a court order.

Remote bidding for physical location sales

(R.C. 2329.152)

If the sale of the real property is conducted at a physical location, each judgment creditor and lienholder who was party to the foreclosure action may submit a remote bid via fax, email, or overnight delivery or courier.

In order to receive remote bids, each sheriff and private selling officer must establish and maintain a fax number or email address. Each remote bid must:

- (1) Be of a fixed maximum amount; and
- (2) Be delivered to the sheriff or private selling officer by 4:30 p.m. on the business day immediately preceding the date of the sale.

Before the sale, the sheriff or the private selling officer must confirm receipt of the remote bid by sending a fax or email to the judgment creditor or lienholder who submitted it. During the sale, the sheriff or officer must place the remote bid on behalf of the bidder. After the sale, the sheriff or officer must provide notice of the results of the sale by the close of business on the day of the sale to all bidders that submitted a remote bid. The notice must be sent by fax or email to the judgment creditor or lienholder or by posting the results of the sale on a public website.

If a sheriff or officer fails to place a remote bid on behalf of a judgment creditor or lienholder to the prejudice of the judgment creditor or lienholder, then, upon the filing of a motion to vacate the sale within ten business days after the sale date, the sale must be vacated.



Appraisal of real property

(R.C. 2329.17, 2329.18, 2329.19, and 2329.56)

Generally

The act revises the real property appraisal provisions to clarify that the officer making the levy in an execution sale is the sheriff (as opposed to a private selling officer) and to require that the freeholders selected to appraise the property own real property in the county. Under continuing law, when execution is levied upon real property, the officer who makes the levy must ask three disinterested freeholders, who are residents of the county where the property is located to appraise the property, upon actual view. The act also refers to the "return of the estimate of the real property" as an "appraisal" or "appraised value" and removes the requirement that the sheriff administer an oath to the freeholders to impartially appraise the property.

Residential property appraisal

The act adds that during the appraisal process of residential property subject to the foreclosure sale, the freeholders selected by the sheriff must return to the sheriff an estimate of the property's value in money within 21 calendar days of the issuance of the order of appraisal by the clerk of the court. If the court has ordered or the clerk has issued an order for a private selling officer to advertise and sell the appraised property, the freeholders selected by the sheriff must contemporaneously deliver a copy of their appraisal to the private selling officer.

If the freeholders selected by the sheriff do not deliver their appraisal within 21 days:

(1) The cost of the appraisal by the freeholders must not be payable to the freeholders or taxed as costs in the case.

(2) The appraised value of the property must be its fair market value as shown on the records of the county auditor, unless, for good cause shown, the court authorizes a separate appraisal.

(3) The advertisement and sale of the property must proceed immediately in accordance with the order of advertisement and sale issued by the clerk of the court.

If a separate appraisal of the property is obtained, the cost of the appraisal must be included as an expense of the sale as described in the act (see "**Costs**," above).



Commercial property appraisal

If the property to be appraised is commercial property, the freeholders selected by the sheriff must return to the sheriff an estimate of the property's value in money in accordance with the timing or other requirements, if any, that may be established for the sale.

Penalty for neglecting to serve as an appraiser

The act increases the penalty fee from 50¢ to \$50 for a freeholder who is summoned as an appraiser and fails to appear at the time and place appointed by the officers ordering the freeholder's appearance. Unless the freeholder has a reasonable excuse, the freeholder must pay the fee for each neglect.

Post appraisal procedures

If a court has ordered or the clerk of court has issued an order for the sheriff to advertise and sell the real property for which the appraised value has been determined, the sheriff must deposit a copy of the appraisal with the clerk of the court from which the writ was issued. In addition, if the court has ordered or the clerk has issued an order for a private selling officer to advertise and sell the property for which the appraised value has been determined, the private selling officer must immediately advertise and sell the property in conformity with the act's provisions and continuing law procedures.

Price and conditions for judicial sales subsequent to the first sale

(R.C. 2329.20, 2329.21, and 2329.52)

The act changes the procedures for judicial sales of residential property subsequent to the first attempt. The procedure for the first sale remains the same as under continuing law: the property must be appraised and the sale price may not be less than $\frac{2}{3}$ of that appraised value. The act requires that if a sale of the property will be held at a physical location and not online and remains unsold after the first auction with a minimum bid of $\frac{2}{3}$ of the appraised value, a second auction is required with no set minimum bid and the property is to be sold to the highest bidder. However, the purchaser at the second sale is still subject to the costs, allowances, and real property taxes (see "**Purchaser's costs**," below). This second auction must be held not earlier than seven days and not later than 30 days after the first auction. If the property remains unsold after two auctions, the sheriff or officer may offer the property for sale with no set minimum bid or the property may be disposed of in any other manner provided by law. This differs from former law, which allowed the court, on motion of the plaintiff or defendant, to order a new appraisal and sale or direct the amount for which the property may have been sold if the property remained unsold after the



first sale; however for real property other than residential property, this procedure continues to apply.

Purchaser deposit

(R.C. 2329.211)

The act requires that in every action demanding the judicial or execution sale of residential property, if the judgment creditor is the purchaser at the sale, the judgment creditor is not required to make a sale deposit. All other purchasers, however, must make a sale deposit as follows:

- If the property's appraised value is less than or equal to \$10,000, the deposit must be \$2,000.
- If the property's appraised value is greater than \$10,000 but less than or equal to \$200,000, the deposit must be \$5,000.
- If the property's appraised value is greater than \$200,000, the deposit must be \$10,000.

The timing of the deposit and other payment requirements must be established by the court or the person conducting the sale and included in the advertisement of the sale. If the purchaser fails to meet the timing or other requirements of the deposit, the sale is invalid.

In judicial or execution sales of commercial property, the purchaser at the sale must make a deposit pursuant to the requirement, if any, established by the sale.

Failure to pay balance due on purchased property

(R.C. 2329.30)

Under continuing law, a court may issue an order for contempt against a person who purchases real property at a judicial sale and fails to timely pay the balance due on the purchase price, which can include ordering the forfeiture of any deposit paid in connection with the sale. The act permits the court, upon motion, to order the return of any remaining portion of the purchaser's deposit, less the costs of a subsequent sale and any other remedy the court considers appropriate. The act states that the effect of an order for contempt for failure of the purchaser to pay voids the confirmation of sale and transfer.

Property taxes paid from property sale proceeds

(R.C. 323.47)

The act modifies how property taxes are determined and paid when real property is sold through a partition action, sold by administrators, executors, guardians, or trustees, or sold at a court-ordered sale.

Under law retained in part by the act, a court is required to discharge from the proceeds of such a sale property tax, assessments, penalties, and interest (hereafter "property charges") that are a lien on the property as of the day the deed is transferred.³ The county treasurer must estimate the amount that will be payable as of that day in order for the court to determine how much of the proceeds to pay toward the property charges. If the treasurer's estimate ultimately exceeds the property charges "actually payable" as of that date, the excess is refunded to the property's purchaser. (In the case of a court-ordered sale, the amount payable is the current year's taxes prorated to the date of the confirmation plus any unpaid taxes from prior years.) Under continuing law, if the estimate is less than the actual amount payable, that shortfall becomes due and payable at the next semiannual property tax payment date.

The act continues to require a court to pay property charges, but only those charges that are a lien as of the date of the sale, rather than the date the deed is transferred. Additionally, the act no longer requires the treasurer to estimate the amount payable on that date. But if the treasurer does complete an estimate, and the estimate exceeds the charges actually payable on the date of sale, the act no longer requires the excess to be refunded to the purchaser. Instead, the treasurer will hold that excess until the plaintiff to the action that resulted in the sale requests that the treasurer refund that amount to private lienholders or, if all such liens are satisfied, to the court for appropriate distribution. For court-ordered sales, the treasurer must complete this estimate before the sale is confirmed.

If the plaintiff purchases the property, the act prohibits the selling officer from deducting property charges that attach as a lien before the sale date but have not yet been determined, unless the plaintiff approves that deduction. If no approval is received, the officer certifies those property charges to the treasurer, which are added to the tax list for the current year.

³ The lien for annual property tax attaches January 1, even though the taxes are not due until the ensuing December 31 or, typically, the ensuing January when extensions are added. The actual amount due for a year may not be finally determined until late in the calendar year.



Finally, the act states that any property charges not paid on the date of sale, or charges that become payable after the sale date, continue as a lien on the property.

Deed and transfer of property title

(R.C. 2329.31)

The act requires the officer who conducts the judicial sale to record the deed to the property within 14 days after the confirmation of sale and payment of the balance due. If the deed is not prepared or recorded within this 14-day period, the purchaser may file a motion with the court to proceed with the transfer of title. If the court finds that a proper sale was made, it must enter an order transferring the title to the purchaser, ordering the plaintiff to present a certified copy of the order to the county recorder, and ordering the county recorder to record the order.

After receiving the court order, the plaintiff, or the plaintiff's attorney, must cause a certified copy of the order recorded in the office of the county recorder. The order, when filed with the county recorder, has the same effect as a deed prepared and recorded by an officer who sells the residential property at a judicial sale under existing law.

The clerk must issue a copy of the court order to the county auditor to transfer record ownership of the property for tax purposes. Property taxes coming due after the date of sale do not prohibit the auditor from transferring ownership of the property on its records or cause the recorder to deny the recording. The property taxes become the responsibility of the new title holder. The sheriff cannot require the confirmation of sale to be amended for taxes not due and payable as of the date of the sale.

Additionally, the act repeals a redundant provision requiring the attorney who filed the writ of execution to prepare a deed to the property purchased.

Right of redemption by judgment creditor or first lienholder

(R.C. 2329.311)

In sales of residential properties taken in execution or order of sale that are sold at an auction with no set minimum bid, the act gives the judgment creditor and the first lienholder the right to redeem the property within 14 days after the sale by paying the purchase price. The redeeming party must pay the purchase price to the clerk of the court in which the judgment of foreclosure was rendered or the order of sale was made. Upon timely payment by the judgment creditor or first lienholder, the court must proceed as if the redeeming party were the successful purchaser at sale.



Purchaser's costs

(R.C. 2329.21)

In addition to costs and allowances required to be paid by the purchaser of real property at a judicial sale under continuing law, the act adds that the purchaser is also responsible for all taxes that the proceeds of the sale are insufficient to cover.

Advertisement requirements

(R.C. 2329.21)

The act adds to the information required to be in the advertisement for property being sold at a judicial sale. Any advertisement must state that a purchaser of the real property is responsible for costs, allowances, and taxes that the proceeds of the sale are insufficient to cover.

Notice requirements

(R.C. 2329.26)

The act specifies that the continuing law requirement for the written notice of the date, time, and place of a judicial sale of real property provided by a judgment creditor to all parties of the action applies if the sale is to be held at a physical location. It also adds that the start date and website address of the sale must be included in the notice if the sale is to be held online. It also adds that the notice must include the provisional second sale date of the property (see "**Price and conditions for sheriff's sales subsequent to the first sale**," above).

In addition, the act modifies the public notice requirement under continuing law, in which the officer conducting the sale must give public notice of the date, time, and place of the sale once a week for at least three consecutive weeks before the sale. The act requires this information to be included in the public notice for physical location sales. If the sale will be conducted online, the public notice must include the start date, the minimum duration, and website address.

Under continuing law, the public notice must be published in a newspaper of general circulation in the county. In addition, the act requires the public notice to include the following information:

- Deposit requirement (see "**Purchaser deposit**," above);
- That the purchaser must be responsible for the costs, allowances, and taxes that the proceeds of the sale are insufficient to cover;



- The provisional second sale date, if applicable.

However, the act provides that a sale will not be invalid, and that a court should not vacate a sale, if the notice required by the judgment creditor or the public notice fails to include the provisional date for a second sale of the property and the property is sold on the initial sale date.

If a private selling officer has been ordered to sell the property, the officer must give the public notice in the newspaper designated by the court. If the court has not designated a newspaper, the officer must give the public notice in the newspaper customarily used or designated by the county sheriff; however, a sale that otherwise complies with the notice requirement is valid.

Purchaser's identifying information

(R.C. 2329.271)

Under continuing law the purchaser of the real property at a foreclosure sale must submit identifying information, such as name, mailing address, and telephone number. The act adds the above information is required if the purchaser is an individual, and in addition requires the individual to provide their email address and financial transaction device information. The act also lists identifying information that a purchaser that is an entity must submit. An attorney or law firm that represents a purchaser may submit the required identifying information in a representative capacity as either an individual or an entity.

While this information continues always to be part of the record of the court of common pleas, under the act it is part of the sheriff's record of proceedings only if the court ordered the sheriff to advertise and sell the real property. The act specifies that email addresses, telephone numbers, and financial transaction information submitted are confidential and not public records.

Reversal of judgment

(R.C. 2329.45)

The act requires that when there has been a reversal of judgment on appeal and the court orders a judgment creditor to pay restitution, pursuant to continuing law, the court must take into consideration all persons who lost an interest in the property by reason of the judgment and sale and the order of the priority of those interests.

Property sold by master commissioner

(R.C. 2329.34)

The act permits a court to authorize a master commissioner to sell real property only in response to a motion by a judgment creditor. The court can grant the motion, as established under continuing law, only if a special reason exists as to why the sale should not be made by the sheriff of the county where the decree or order was made or, as the act adds, by the private selling officer.

Judgment creditor conduct

(Section 101.03)

The act requires a judgment creditor, in connection with a real property foreclosure action, to proceed in a commercially reasonable manner in complying with the act, not inconsistent with ordinary care as defined under continuing law.

Local government authority to continue foreclosure sale

(R.C. 2329.071)

If there has been a decree of foreclosure entered with respect to a residential property and it has not been sold or a sale is not underway, the act permits, beginning 12 months after the entry of the foreclosure decree, a local political subdivision to request (by motion, resolution, or by other means) that a county prosecuting attorney file a motion with the court for the sale of the property. Once the prosecuting attorney receives the request, or by the prosecuting attorney's own motion, the prosecuting attorney may file a motion with the court to sell the property in the same manner as the attorney for the party in whose favor the decree of foreclosure and order of sale was entered. The prosecuting attorney must serve a copy of the motion to all parties who entered an appearance in the foreclosure action in accordance with the Ohio Rules of Civil Procedure.

The court must decide the motion no sooner than 30 days after the motion is filed. Unless the court finds good cause as to why the property should not be sold, the court must grant the motion and order the prosecuting attorney to issue a praecipe for order of sale and sell the property at the next available public auction, with no set minimum bid and in accordance with the terms of the order of sale and Ohio law. In addition, the judgment creditor has the right to redeem the property within 14 days after the sale by paying the purchase price. The judgment creditor must pay the purchase price to the clerk of the court in which the judgment was rendered or the order of sale was made. Upon timely payment, the court must proceed with the



recording of the deed and transfer of title (see "**Deed and transfer of property title**," above) with the judgment creditor considered the successful purchaser at sale.

Owner's physical harm to property

(R.C. 2308.04 and 2909.07)

Under the act, a person is guilty of criminal mischief if all of the following apply:

(1) The person knowingly and with the purpose to diminish the value or enjoyment of the residential property moves, defaces, damages, destroys, or otherwise improperly tampers with the person's own residential property;

(2) The residential real property is subject to a mortgage;

(3) The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action related to the property. This includes the time between the filing of the foreclosure action and confirmation of sale.

Attorney General reports and database

(R.C. 2329.312)

The act requires all officers appointed or authorized by a court to conduct a judicial sale or execution sale of residential property consisting of one to four single-family units to submit quarterly reports, consisting of data of each sale conducted, to the Attorney General for the purposes of assessing the extent to which the act's deadline requirements are met.

By September 28, 2017 (one year after the act's effective date), the Attorney General must (1) establish and maintain a database comprised of the information submitted by the officer and (2) make the information in the database publicly available.

Responsibilities of the clerk of the court of common pleas

(R.C. 2303.26)

The act prohibits the clerk of the court of common pleas from restricting, prohibiting, or otherwise modifying the rights of parties to seek service on party defendants allowed by the Rules of Civil Procedure, either singularly or concurrently.



Enforcement of lost instrument

(R.C. 1303.38)

The act modifies one of the three conditions that must be satisfied for a person to enforce a lost instrument under Ohio Commercial Paper Law. Under prior law a person not in possession of an instrument was entitled to enforce it if, in part, he or she was in possession of the instrument and entitled to enforce it when loss of possession occurred. The act modifies this condition to additionally permit it to be satisfied if the person "had directly or indirectly acquired ownership" of the instrument from a person entitled to enforce it when loss of possession occurred.

Tax certificate foreclosure sales

(R.C. 5721.371, 5721.372, 5721.373, and 5721.39)

Authority for private selling officer to sell property

The act permits a certificate holder of a tax lien to file a motion with the court for an order authorizing a specified private selling officer to sell the real property at a public auction. If the court authorizes a private selling officer to sell the property, then after the filing of a writ for the order of sale with the clerk of the court, the clerk must immediately issue an order of sale to the private selling officer authorized by the court. The officer can then conduct the public auction at a physical location in the county in which the property is located or online. Similar to other foreclosure sales, if the public auction occurs online, it must be open for bidding for seven days, and if the property is not sold within the seven-day period, a second online auction must be held not earlier than three days or later than 30 days after the end of the first auction. The second auction must also be open for bidding for seven days.

A private selling officer who conducts a tax certificate foreclosure sale of real property at a public auction may do all of the following:

- Market the property for sale and hire a title insurance agent licensed under Ohio law or title insurance company authorized to do business under Ohio law to assist with performing administrative services;
- Execute to the purchaser, or the purchaser's legal representatives, a deed of conveyance of the property sold;
- Record on behalf of the purchaser the deed conveying title to the property, even if the deed has not actually been delivered to the purchaser prior to its recording.



By placing a bid at a sale, a purchaser appoints the private selling officer as the purchaser's agent for the sole purpose of accepting delivery of the deed.

The private selling officer must hire a title insurance agent licensed under Ohio law or title insurance company authorized to do business under Ohio law to perform title, escrow, and closing services.

Under continuing law when an officer who offers the property for sale in which no bids meet the minimum bid requirement as determined by the court or board of revision, the officer must suspend the sale to the second date specified in the advertisement of the sale. The act specifies that this requirement applies whenever the officer charged to conduct the sale offers a certificate property for sale at a physical location and not online.

Priority of fees

Under continuing law, fees and costs incurred in the proceeding filed against the property pursuant to a tax certificate foreclosure must be paid first, including attorney's fees of the certificate holder's attorney or the county prosecutor's costs. The act adds to this list private selling officer's fees, marketing costs, and title insurance agent or title company fees.

Attorney fees

The act adds to continuing law limitations on attorney's fees that may be charged as costs against property if the tax certificate foreclosure action is filed by a private attorney. Under continuing law, the limit is \$2,500, unless otherwise authorized by the court. The act specifies that fees up to \$2,500 are presumed to be reasonable. In addition, if the private attorney's fees payable are fixed and not determined on an hourly basis, the court cannot consider or require evidence of hours expended or hourly rates.

Private selling officer fee

The act establishes limitations of the private selling officer's fees with respect to a tax certificate foreclosure action. It requires that these fees must be reasonable and specifies that fees up to \$750 are presumed to be reasonable. Fees more than 5% of the sale of the property, if the fee amount is greater than \$750, can be paid only if authorized by a court order. The act also adds that the terms of sale negotiated under continuing law may include the amount to be paid in private selling officer's fees, subject to the act's fee limitation described above.

Title agent and title insurance company fee

The act establishes limitations on title insurance agents and title insurance company fees payable with respect to a tax certificate foreclosure action. It requires that the fees be reasonable and that fees up to \$500 are presumed to be reasonable. Fees more than \$500 can be paid only if authorized by a court order. The act also adds that the terms of sale negotiated under continuing law may include the amount to be paid in title agent's or title company's fees, subject to the fee limitations above.

Licensed auctioneers and judicial sales

(R.C. 2329.151)

The act limits the authority of auctioneers to conduct judicial sales. Under former law, public auctions of goods, chattels, and lands levied upon by execution were required to be conducted personally by an officer of the court or by an auctioneer licensed under Ohio law. Under the act, auctioneers who are not private selling officers can auction only goods and chattels. The act also adds that the auctioneer must be an Ohio resident licensed as an auctioneer under Ohio law, limiting the ability of nonresident auctioneers acting under a reciprocal licensing arrangement.

Conduct throughout the foreclosure process

(Section 101.03)

The act requires a person whose conduct is governed by the act to comply in good faith with its requirements and act in good faith throughout the foreclosure process. "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

Conforming changes

(R.C. 2327.01, 2327.02, 2327.04, 2329.151, 2329.17, 2329.28, 5302.01, and 5302.31)

Execution judgments

The act makes conforming changes to how execution judgments are defined and carried out, permitting private selling officers to execute judgments. Continuing law states that an execution is a process of a court, issued by its clerk, the court itself, or the county board of revision with jurisdiction, and directed to the sheriff of the county, and that executions can be issued to the sheriffs of different counties at the same time. Under the act, an execution includes a process of a court, issued by its clerk or the court itself, and directed to a private selling officer authorized under the act's provisions, and executions may be issued to different private selling officers at the same time.



Private selling officer's deed form

The act establishes a statutory form that may be used as the private selling officer's deed. The deed, when properly executed, according to continuing law relating to real property conveyances, has the force and effect of a deed in fee simple to the grantee, the grantee's heirs, assigns, and successors, for their own use, with covenants that at the time of the delivery of the deed, the grantor was properly appointed, qualified, and acting in the fiduciary capacity described in that deed, and was authorized to make the sale and conveyance of the premises. In addition, the deed establishes that in all of the grantor's proceedings in the sale of the premises the grantor has complied with all requirements under law.

Technical change

(R.C. 2329.26)

The act makes a technical change regarding which Ohio Civil Rule the judgment creditor must follow when providing the court proof of service.

Exempt state employee salary schedules

(R.C. 124.152, with conforming changes in R.C. 124.181, 124.382, and 126.32; Section 812.20)

The act makes changes to the salary schedules for exempt state employees by eliminating Schedule E-1 for Step Eight Only on July 1, 2017. An exempt employee generally is an employee subject to the state job classification plan but exempt from collective bargaining. The act gradually moves employees paid under Schedule E-1 for Step Eight Only into the corresponding pay range in Schedule E-1. It creates a new step for pay ranges 12 through 16 of Schedule E-1, Step 8, which provides for a higher maximum amount of pay than Schedule E-1 for Step Eight Only. The amounts in Step 8 are the amounts formerly specified in Schedule E-1, Step 7. The act, with respect to Step 7, decreases the amounts paid under that step.

The act requires an exempt state employee who is being paid a salary or wage in pay range 12 through 16 of Schedule E-1 for Step Eight Only to be paid a salary or wage in the corresponding pay range in Schedule E-1 as follows:

(1) If the employee has maintained satisfactory performance in accordance with the criteria established by the employee's appointing authority within the 12-month period immediately before July 1, 2016, at Step 8 beginning on the first day of the pay period that includes July 1, 2016;



(2) If the employee has not maintained satisfactory performance in accordance with the appointing authority's criteria within that period, but attains satisfactory performance in accordance with the criteria before July 1, 2017, at Step 8 beginning on the first day of the pay period that follows the date the employee attains satisfactory performance;

(3) If the employee does not attain satisfactory performance in accordance with the appointing authority's criteria before July 1, 2017, at the employee's base rate of pay as of the pay period immediately before the pay period that includes July 1, 2017, beginning on the first day of the pay period that includes July 1, 2017.

If an employee described in (3) above attains satisfactory performance in accordance with the appointing authority's criteria, the act requires the employee to be paid a salary or wage at Step 8 in the corresponding pay range in Schedule E-1 beginning on the first day of the pay period that follows the date the employee attains satisfactory performance.

The act prohibits each exempt state employee who is being paid a salary or wage in pay range 17 or 18 of Schedule E-1 for Step Eight Only on the first day of the pay period that includes July 1, 2016, from receiving an increase in salary or wage until the maximum rate of pay for Step 6 of the employee's corresponding pay range in Schedule E-1 exceeds the employee's base rate of pay as of July 1, 2016. The act requires such an employee who becomes eligible to receive an increase in salary or wage to be paid a salary or wage in Step 6 of the employee's corresponding pay range in Schedule E-1.

An employee's "base rate of pay" is the rate of pay established under Schedule E-1 or Schedule E-1 for Step Eight Only plus the longevity supplement provided under continuing law and any other supplements added to those pay schedules.

Effective date for pay schedule revisions

The sections amended by the act to revise the pay schedules take effect on September 28, 2016.

Certificate of need for changes in a reviewable activity

(R.C. 3702.511)

Continuing law prohibits a person from carrying out a reviewable activity for which a certificate of need (CON) is needed unless the Department of Health has issued a CON for the activity.⁴ The following are the reviewable activities for which a CON is

⁴ R.C. 3702.53, not in the act.



needed: (1) establishing a new long-term care facility, (2) replacing an existing long-term care facility, (3) renovating or adding to a long-term care facility involving capital expenditures of \$2 million or more, (4) increasing long-term care bed capacity, (5) relocating long-term care beds from one facility or site to another, and (6) spending more than 110% of the maximum expenditure specified in a CON.

The Department is required by continuing law to monitor the activities of a person granted a CON for five years after the CON is granted. The monitoring is to determine whether the person conducts the reviewable activity in substantial accordance with the CON.⁵

The act provides that any failure to conduct a reviewable activity in substantial accordance with an approved CON application, including a change in the site, is itself a reviewable activity if the failure occurs within five years after implementation of the reviewable activity for which the CON was granted. Another CON is needed to continue conducting the reviewable activity with the change. (Continuing law provides that a decrease in bed capacity is not to be used as the sole reason for a determination that a reviewable activity is not being conducted in substantial accordance with the CON.⁶ This means that another CON is not needed solely because of a decrease in bed capacity.)

Community health assessments, implementation plans, and tax information

(R.C. 3701.981)

The act requires boards of health and tax-exempt hospitals to submit certain health assessments and implementation plans to the Department of Health on an aligned schedule. It also requires tax-exempt hospitals to submit certain tax-related information to the Department annually.

The act defines "board of health" as the board of health of a city or general health district or the authority having duties of a board of health under continuing law. Boards of health are required to conduct community health assessments and health improvement plans as part of accreditation requirements.⁷

The act defines "tax-exempt hospital" as a nonprofit or government-owned hospital that is tax exempt under federal tax law (section 501(c)(3) of the Internal

⁵ R.C. 3702.52, not in the act.

⁶ R.C. 3702.52, not in the act.

⁷ Ohio Department of Health, *Profile and Performance*, <https://www.odh.ohio.gov/localhealthdistricts/profileandperformance.aspx> (last updated December 31, 2014).



Revenue Code) and that is required to comply with community health needs assessment requirements under the federal Patient Protection and Affordable Care Act of 2010 (ACA). The ACA includes requirements that "hospital organizations" must satisfy in order to be eligible for the tax exemption. One of the ACA's requirements is that each hospital organization conduct a community health needs assessment and adopt an implementation strategy at least once every three years.

Plans and assessments submitted by boards and hospitals

The act requires, not later than July 1, 2017, each board of health and tax-exempt hospital to submit to the Department any existing plans and assessments for the most recent assessment and planning period. Beginning January 1, 2020, each board of health and tax-exempt hospital must complete assessments and plans in alignment on a three-year interval to be established by the Department. The first submission of plans and assessments must be made to the Department by October 1, 2020. The submission must cover years 2020 through 2022. Beginning October 1, 2023, and every three years thereafter, subsequent plans and assessments must be submitted to the Department.

The act requires the Department to provide guidance regarding submitting the plans and assessments. The Department must provide an online repository for the plans and assessments.

Tax information submitted by hospitals

The act requires a tax-exempt hospital, annually beginning not later than July 1, 2017, to submit to the Department specified tax-related information. The Department must provide an online repository for the information. The information that must be submitted depends on whether the hospital is a government-owned hospital.

Nonprofit hospitals generally – In the case of a tax-exempt hospital that is nonprofit but not government-owned, the hospital must submit a copy of its Schedule H (Form 990) that it submitted to the Internal Revenue Service (IRS) for the preceding fiscal year. The hospital must include any corresponding attachments and reporting on financial assistance and means-tested government programs and community building activities included in Parts I and II of the form. Subsequent annual filings must be submitted within 30 days of filing with the IRS.

Government-owned hospitals – In the case of a tax-exempt hospital that is government-owned, the hospital must submit information that is equivalent to the IRS-related information submitted by a nonprofit hospital.

Alternative Fuel Vehicle Conversion Grant Program

(R.C. 122.076; Section 275.10 of H.B. 64 of the 131st G.A.)

The act creates the Alternative Fuel Vehicle Conversion Grant Program. Under the Program, the Director of Environmental Protection may make grants for the purchase or conversion of large alternative fuel vehicles used in business. Under the act, "alternative fuel" means compressed natural gas, liquefied natural gas, or liquid petroleum gas (e.g., propane). An "alternative fuel vehicle" includes any vehicle, including a bi-fueled or dual-fueled vehicle, that is registered for use on public highways, that runs on alternative fuel, and that has a gross vehicle rating of at least 26,000 pounds.

A person may apply for a grant for the conversion of a traditional fuel vehicle (i.e., a vehicle that runs on gasoline or diesel) to run on alternative fuel, or for the purchase of a new alternative fuel vehicle. The purchase of a new vehicle must meet the following conditions:

- (1) The applicant must purchase the vehicle from an original equipment manufacturer, automobile retailer, or after-market conversion facility;
- (2) The applicant must be the first person to purchase the vehicle not for resale;
- (3) The alternative fuel technology must have received a compliance designation or been certified by the U.S. Environmental Protection Agency for new or intermediate use;
- (4) The applicant must purchase the vehicle for use in business.

The grant amount allowed per vehicle is the lesser of \$25,000 or 50% of either (a) the cost of equipment and parts needed to convert a traditional fuel vehicle or (b) the "adjusted purchase price" of the new alternative fuel vehicle. The "adjusted purchase price" of a new vehicle is the portion of the vehicle's price that is attributable to the parts and equipment used for storage of alternative fuel, delivery of alternative fuel to the motor, or exhaust of gases from combustion of alternative fuel. For a converted vehicle, the cost of conversion parts and equipment may not include the cost of any parts and equipment that have previously been used to modify or retrofit another traditional fuel vehicle.

The total amount of grants that may be awarded to a single person cannot exceed \$400,000.



The Director must adopt rules in accordance with the Administrative Procedure Act to administer the Program.

FY 2017 funding

The act creates the Alternative Fuel Vehicle Conversion Fund in the state treasury. Money in the Fund must be used solely to make grants under the Program. The act directs the OBM Director to make at least \$5 million available to the Fund in FY 2017 from the Alternative Fuel Transportation Fund.

Controlling Board

Emergency Purposes Fund name change

(R.C. 127.19; Section 245.10 of H.B. 64 of the 131st G.A.)

The act changes the name of the Controlling Board Emergency Purposes Fund to the Controlling Board Emergency Purposes/Contingencies Fund.

Surplus GRF transfer for Controlling Board use

(Section 515.10)

The act requires the Director of Budget and Management to transfer certain surplus GRF revenues, up to \$25 million, to the Controlling Board Emergency Purposes/Contingencies Fund. This fund is used by the Controlling Board for any purpose, including providing disaster and emergency aid to state agencies or local subdivisions. The amount to be transferred equals the lesser of \$25 million or the amount by which unencumbered GRF surplus revenue as of the end of FY 2016 exceeds the sum of (a) 0.5% of GRF revenues for the FY 2016 and (b) the amount, if any, by which the amount appropriated for FY 2017 exceeds GRF revenue estimates for that fiscal year. (These amounts are referred to statutorily as the "ending fund balance" and "carryover balance," respectively.⁸)

Movie production tax credit

(R.C. 122.85; Section 803.10)

The act makes several changes to Ohio's refundable motion picture tax credit. It changes how the credit is calculated, removes a \$5 million cap on the maximum credit amount that may be awarded to a production, increases the maximum amount of

⁸ R.C. 131.44(A)(3)(b) and (c), not in the act.



credits that may be awarded in each fiscal year, and authorizes motion picture companies to transfer the authority to claim a credit to another person.

Additionally, the act creates a job training program for Ohio resident film crew members whereby the Director of Development Services is required to pay to the employing motion picture company one-half of the salary of such members certified by the Director.

Continuing law authorizes a motion picture company that produces at least part of a motion picture in Ohio and incurs at least \$300,000 in Ohio-sourced expenditures to apply to the Director to receive a certificate entitling the company to refundable credits against the commercial activities tax, financial institutions tax, or personal income tax. The act's tax credit changes apply to certificates issued beginning July 1, 2016.

Credit amount

Under prior law, the amount of the credit equaled the lesser of \$5 million or a percentage of Ohio-sourced expenditures for goods, services, and payroll. The percentage equaled 25% of the cost of goods and services (including payroll of nonresidents) and 35% of payroll of Ohio resident cast and crew. The act sets the credit percentage at 30% for all Ohio-sourced expenditures, including the payroll of Ohio resident cast and crew, and removes the \$5 million credit cap.

Overall credit limit

Prior law limited the total amount of tax credit certificates that may be issued to no more than \$40 million in each fiscal biennium and no more than \$20 million for the first fiscal year of the biennium. The act increases the amount of allowable credits to \$40 million per fiscal year. If less than \$40 million is awarded in a year, the remainder is not carried over to ensuing years.

Credit certificate transfers

The act authorizes a motion picture company to transfer the authority to claim all or part of a motion picture tax credit to another person, provided the company provides certain details of the transfer to the Director of Development Services within 30 days after such a transfer. Specifically, the transferring company must detail the amount of the credit being transferred, the date of the transfer, and the tax identification number of any transferee. The Director may require a company to supply additional information.

The act disallows credit transfers after expiration of the time for the motion picture company to claim the credit and requires any transferred credit to be claimed by



the transferee for the same tax period for which the company could have claimed the credit. A motion picture company may divide portions of a transferred credit between different transferees but may not transfer the same portion of the credit to more than one transferee.

Film crew salary payment program

The act requires the Director of Development Services to establish and adopt rules administering a program to pay eligible motion picture companies 50% of the salary of certain Ohio resident trainees. Under this program, the Director certifies resident individuals as eligible for the program if they participate in Director-approved on-the-job film or multimedia training or complete a Director-approved film or multimedia training course. The Director may prescribe additional certification qualifications.

A motion picture company whose production has been certified by the Director as eligible for a motion picture tax credit that intends to employ and provide on-the-job training to a certified individual in that production may apply to the Director for a payment equal to 50% of that certified employee's salary. The Director, upon completion of the production, must pay each approved applicant an amount equal to 50% of the certified individual's salary, though the act does not specify the revenue source from which the payment may be drawn.

Other tax-related provisions

Municipal gas company sales exemption

(R.C. 5739.01(RRR) and 5739.02(B)(7); Section 757.20)

The act exempts from state and local sales and use taxes natural gas sold to customers by a municipal gas utility – defined as a municipally owned or operated system for distributing natural gas. The exemption applies to sales occurring before or after the act's effective date.

Continuing law exempts from sales and use tax sales of natural gas by a "natural gas company," which is broadly defined to include any entity that engages in the business of supplying or distributing natural gas for lighting, power, or heating purposes to in-state consumers.⁹ However, the statute that, under prior law, governed

⁹ R.C. 5727.01, not in the act.



which entities are natural gas companies for this purpose did not apply to municipal corporations.¹⁰

Tax abatement for housing authority property

(Section 757.10)

The act authorizes the abatement of unpaid property taxes, penalties, and interest on property that is owned by a metropolitan housing authority and that would have been tax-exempt if not for a failure to comply with the procedures for obtaining tax-exempt status. The current owner of the property may file an application with the Tax Commissioner requesting that the property be placed on the tax-exempt list and that all unpaid taxes, penalties, and interest be abated. The application must be filed by September 28, 2017 (12 months after the act's effective date).

With the exception of the act's abatement provisions, continuing law allows the Commissioner to abate only up to three years' worth of unpaid property taxes, interest, and penalties. No exemption may be granted if, after any abatement of taxes, there remain unabated unpaid taxes.¹¹

Procedures for receiving tax abatement

The application form must include the name of the county in which the property is located; the legal description or parcel number of the property; its taxable value; the amount of unpaid taxes, penalties, and interest; and any other information required by the Tax Commissioner.

If the property owner meets all of the qualifications specified in the act, the unpaid charges must be abated. If the property does not meet the qualifications, or is otherwise being used for a purpose that would foreclose its right to exemption, the charges are not abated. For any year that the applicant is not entitled to tax abatement, the Commissioner must order the county treasurer to collect the unpaid charges for that year.

If property is already subject to an application for exemption pending on September 28, 2016 (the act's effective date), the Commissioner may consider the abatement without requiring the property owner to file another application.

¹⁰ R.C. 5727.05, not in the act.

¹¹ R.C. 5713.08 and 5713.081, not in the act.



Job retention tax credit application review process

(R.C. 122.171(C))

The act clarifies the role of the Director of Budget and Management (OBM), Tax Commissioner, and Superintendent of Insurance in reviewing applications for job retention tax credits. Under continuing law, a taxpayer that will make a capital investment in Ohio and retain jobs may apply to the Tax Credit Authority for a job retention tax credit. After receiving an application, the Authority must forward the application to the OBM Director, Commissioner, Superintendent, and the Director of the Development Services Agency (DSA). Each official reviews the application to determine the economic impact of granting the credit on the state and affected local governments.

Under prior law, after completing their review, all four officials were required to submit their "determinations and recommendations" to the Authority. The act removes the requirement that the OBM Director, Commissioner, and Superintendent submit "recommendations" with respect to each application, while maintaining that requirement for the DSA Director.

Eliminate county utility excise tax

(R.C. 305.31, 305.42, 323.73, and 5747.51; R.C. 324.01, 324.02, 324.021, 324.03, 324.04, 324.05, 324.06, 324.07, 324.08, 324.09, 324.10, 324.11, 324.12, and 324.99 (all repealed))

The act eliminates the authority of counties to levy a tax on utility services purchased by consumers in the county. This tax was first authorized in 1967. However, no county ever levied the tax.

Under prior law, a board of county commissioners was authorized to impose the tax by holding two hearings on the subject and adopting a resolution. The tax did not need to be submitted to the voters, but was subject to referendum. The tax rate could not exceed 2% of the utility charge, except that customers engaged in business would have been required to pay 150% of the rate imposed on all other customers.

Library tax-supported securities

(R.C. 3375.404)

The act authorizes public library boards of trustees to issue securities to finance facilities and other property, with the securities backed by property taxes levied by the library board's corresponding taxing authority – i.e., by the school board, municipal council, or board of township trustees or county commissioners that appoints the library board's trustees.



Under prior law, library boards had authority to issue securities only in anticipation of their share of distributions from the state's Public Library Fund (PLF). The proceeds raised from the securities must be used to pay the costs of real and personal property used by a library board to operate its library system. The amount of securities that may be outstanding at any time is limited to 30% of the library board's average PLF distribution during the two most recent years. Such securities are deemed "special obligations" because they are payable solely from PLF distributions; bondholders do not have the right to have taxes levied to pay the debt charges as they would with general obligation securities.

Under continuing law, public library boards do not have independent taxing power. Instead, the library board's taxing authority may levy a property tax to pay the expenses of the corresponding library system and also may issue general obligation bonds backed by such a property tax to enable the library board to pay for real or personal property.¹² These general obligation bonds are issued and payable by, and are the obligation of, the taxing authority rather than the library board. The act's special obligations may be issued by the library board itself, which would be obligated to pay the debt charges out of the proceeds it receives from the property tax levied for it by its taxing authority.

The act states that the property tax-supported securities are special obligations that are payable only from the pledged tax revenue and not from any other source, are not a debt of either the library board or its taxing authority, and are not bonded indebtedness for the purposes of the constitutional "sinking fund" requirement mandating that a tax be levied whenever bonded indebtedness is incurred. The act further states that the property tax must continue in effect for as long as needed, and at a sufficient rate, to retire the securities.

School district performance audits

(R.C. 3316.042; Sections 223.10, 263.10, and 263.50 of H.B. 64 of the 131st G.A.)

Under continuing law, the Auditor of State may conduct nonacademic performance audits of school districts that are under fiscal caution, fiscal watch, or fiscal emergency to review areas of operation in which the Auditor of State believes greater operational efficiencies or enhanced results can be achieved. Prior law also required the Auditor of State, upon the request of the Superintendent of Public Instruction, to conduct performance audits for districts in any of the three categories of fiscal concern. The act, instead, specifies that the Auditor of State must determine for which districts to conduct performance audits in consultation with the Department of Education and the

¹² R.C. 133.18, 3375.43 to 3375.45, 5705.19(D), 5705.191, and 5705.23, not in the act.



Office of Budget and Management (OBM). Priority must be given to districts in fiscal distress, including districts employing fiscal practices or experiencing budgetary conditions that could produce a state of fiscal watch or fiscal emergency, again as determined by the Auditor of State and in consultation with the Department and OBM.

Finally, the act prescribes that the Auditor of State, rather than the Department as under prior law, must pay the costs of the performance audits. It transfers to the Auditor of State \$1 million, originally appropriated to the Department, for FY 2017 to pay expenses related to these performance audits.

Veterinarian licensing

(R.C. 4741.11)

The act expands the requirements to obtain a license to practice veterinary medicine to additionally require an applicant to have passed the nationally recognized examination approved by the State Veterinary Medical Licensing Board in accordance with rules adopted by the Board.

Ohio Turnpike and Infrastructure Commission

(R.C. 5537.02)

The act allows designees of the Directors of Transportation and Budget and Management to serve as members of the Ohio Turnpike and Infrastructure Commission. Prior law did not explicitly allow the Directors to have designees represent them on the Commission.

Oil and gas unit operation of ODOT-owned lands

(Section 715.10)

The act specifies a timeline by which the Chief of the Division of Oil and Gas Resources must act on particular applications for unitization. Specifically, if the Chief held a hearing before June 28, 2016 (the effective date of this provision) regarding an application for oil and gas unit operation that encompasses a unit area for which all or part of the mineral rights are owned by ODOT, the Chief must issue an order by August 12, 2016, denying or approving the unit operation of a pool or part of a pool. The act specifies that an applicant to whom the above provision applies is not required to commence unit operations within 24 months of the effective date of the Chief's order.

Ohio Judicial Conference exempt from sunset review

(Section 701.20)

The act exempts the Ohio Judicial Conference from review by the Sunset Review Committee convened to operate during the 131st General Assembly. The operation of the Ohio Judicial Conference is renewed until December 31, 2020.

Capital Case Attorney Fee Council

(R.C. 120.33 and 2941.51)

The act creates the Capital Case Attorney Fee Council to replace the Supreme Court of Ohio as the authority that sets the rate of compensation for counsel selected by indigent persons or appointed by courts in capital cases. All amounts or rates set by the Council are final, subject to modification by the Council, and are not subject to appeal. Upon setting the amount or rate of compensation, the Council chairperson promptly must provide written notice to the State Public Defender, and the amount or rate set takes effect 90 days after the chairperson provided that notice.

The five members comprising the Council, all sitting state appellate court judges, must be appointed by the Chief Justice of the Supreme Court by November 27, 2016 (60 days after the act's effective date). Their initial terms commence December 27, 2016. The Council must initially meet by January 26, 2017, and then meet at least annually. When any vacancy occurs, the Chief Justice must appoint a sitting state appellate judge to fill the vacancy. Members will receive no additional compensation for their service, but may be reimbursed for expenses reasonably incurred in service to the Council, to be paid by the Supreme Court. The Supreme Court must provide administrative support to the Council.

Land conveyance

(Sections 103.10 and 753.10)

The act repeals a prior authorization to sell by sealed bid or public auction Ohio Department of Job and Family Services (ODJFS) property at 145 S. Front Street, Columbus, and authorizes the Governor to execute a deed conveying the property to the Columbus Downtown Development Corporation, or to a grantee to be determined. The act contains a legal description of the property.

The Director of Administrative Services must offer the real estate through a purchase agreement prepared by the Department of Administrative Services (DAS). Consideration must be a price acceptable to the DAS Director and the ODJFS Director,



and must be paid at closing. The net proceeds of the sale must be deposited into the state treasury to the credit of the Unemployment Compensation Special Administrative Fund.

The authorization for the land conveyance expires September 28, 2019.

The act sets forth other specific terms for the land conveyance, including:

- The property must be sold as an entire tract and not in parcels and must be conveyed "as-is."
- The conveyance must include improvements and chattels situated on the property, and is subject to all leases, easements, covenants, conditions, and restrictions of record; all legal highways and public rights-of-way; zoning, building, and other laws, ordinances, restrictions, and regulations; and property taxes and assessments not yet due and payable.
- The deed may contain restrictions, exceptions, reservations, reversionary interests, and other terms and conditions the DAS Director determines to be in Ohio's best interest. The restrictions can prohibit the grantee from occupying, using, developing, or selling the property in a way that interferes with the quiet enjoyment of neighboring state-owned land.
- After the conveyance, the state or ODJFS can release any terms and conditions contained in the deed without further legislation.
- If the Columbus Downtown Development Corporation, or the grantee to be determined, does not complete the purchase within the time provided in the purchase agreement, the DAS Director may offer to sell it to an alternate grantee, through a purchase agreement prepared by DAS. Consideration must meet the criteria described above.
- The grantee must pay all costs associated with the purchase, closing, and conveyance, including surveys, title evidence, title insurance, transfer costs and fees, recording costs and fees, taxes, and any other fees, assessments, and costs that are imposed.

Intent regarding capital appropriations and reappropriations

(Section 701.30)

The act states that the General Assembly's intent regarding capital appropriations and reappropriations made in S.B. 260 and S.B. 310 of the 131st General Assembly and subsequent capital-appropriations and reappropriations bills is that



those appropriations and reappropriations are for capital construction projects that are ready to begin construction or for projects that will be completed within the applicable two-year fiscal biennium. It also states that the General Assembly's intent is that projects that are neither started nor completed within the biennium will be allowed to lapse and not be reappropriated. However, the act states that the General Assembly recognizes that there are times when extraordinary circumstances prevent projects from progressing as originally conceived. But it states that reappropriations for these projects will be the exception, not the default.

HISTORY

ACTION	DATE
Introduced	11-05-15
Reported, H. Ways & Means	01-27-16
Passed House (93-0)	02-24-16
Reported, S. Ways & Means	05-25-16
Passed Senate (33-0)	05-25-16
House concurred in Senate amendments (69-26)	05-25-16

16-HB390-131.docx/ks

